

Message

From: Brock, Martha [Brock.Martha@epa.gov]
Sent: 7/2/2021 6:18:58 PM
To: Amoroso, Cathy [Amoroso.Cathy@epa.gov]; Thoms, Sharon [Thoms.Sharon@epa.gov]; Froede, Carl [Froede.Carl@epa.gov]
CC: Jones, Connie [Jones.Constance@epa.gov]; Frederick, Tim [Frederick.Tim@epa.gov]; Alexander, Shanna [Alexander.Shanna@epa.gov]; Osteen, Bill [Osteen.Bill@epa.gov]; Johnson, MaryC [Johnson.MaryC@epa.gov]
Subject: RE: DOE Oak Ridge Priority EMDF D1 ROD review/comment...

Just a friendly reminder for some of us (others may not have heard this), Section XIV of the FFA describes the process for review of the Proposed Plan and ROD. While we were not successful at following the FFA for review of the Proposed Plan, we still have the provisions of ROD review to pay attention to.

Specifically, and of note, is that the process for review of a ROD does not follow the typical path for review of pre-ROD or post-ROD primary documents.

It specifically states that if we are unable to agree on a D1 ROD, the selection of the remedial action shall be by the EPA administrator, that the Administrator (or his delegatee) prepares a signed ROD, and that the "final" selection of the remedial action shall not be subject to dispute resolution.

We may have a different "past practice" – maybe because we weren't reading Section XIV.

XIV. REMEDIAL ACTION PLAN(S)/RECORD(S) OF DECISION

Following completion and a review in accordance with Section XXI (Review/Comment) by EPA and TDEC of an RI(s) (including any RI for an operable unit) and the corresponding FS(s) (including any FS for an operable unit) for all or part of the Site, the DOE shall submit a Proposed Plan(s) for remedial action(s), including appropriate timetables and deadlines, to EPA and TDEC for review in accordance with Appendix E and Section XXI (Review/Comment) of this Agreement. The Proposed Plan(s) shall meet the purposes set forth in Section III (Purposes of Agreement) of this Agreement. Following approval by the EPA and TDEC pursuant to Section XXI (Review/Comment) of this Agreement, the DOE shall publish its proposed Remedial Action Plan (RAP) for public review and comment in accordance with Section 117(a) of CERCLA, 42 U.S.C. § 9617(a), and applicable State law. Upon completion of the public comment period,

all Parties shall confer about the need for modification of the Proposed Remedial Action Plan and additional public comment based on the public response. When public comment has been properly considered, the DOE shall submit its initial D1 Record(s) of Decision, including the responsiveness summary, in accordance with

applicable guidance. The DOE shall also submit the proposed Administrative Record (AR) Index with transmittal of the D1 ROD for review, in accordance with Appendix I-10, AR Index Transmittal Operating Instructions. The D1 ROD(s) shall meet the purposes set forth in Section III (Purposes of Agreement) of this Agreement. A review in accordance with Section XXI (Review/Comment) shall be conducted on the D1 Record(s) of Decision. If the Parties agree on the D1 Record(s) of Decision, the D1 Record(s) of Decision shall be adopted by EPA and TDEC, and the DOE shall issue the Record(s) of Decision for signature by the Parties. If the Parties are unable to reach agreement on the D1 Record(s) of Decision, the selection of the remedial action shall be made by the Administrator of EPA, or his delegatee, and EPA shall then prepare the EPA signed Record(s) of Decision. The final selection of the remedial action(s) by the Administrator shall be final and shall not be subject to dispute under Section XXVI (Resolution of Disputes). Notice of the final

From: Amoroso, Cathy <Amoroso.Cathy@epa.gov>

Sent: Friday, July 2, 2021 9:49 AM

To: Thoms, Sharon <Thoms.Sharon@epa.gov>; Froede, Carl <Froede.Carl@epa.gov>

Cc: Jones, Connie <Jones.Constance@epa.gov>; Frederick, Tim <Frederick.Tim@epa.gov>; Alexander, Shanna <Alexander.Shanna@epa.gov>; Osteen, Bill <Osteen.Bill@epa.gov>; Brock, Martha <Brock.Martha@epa.gov>

Subject: RE: DOE Oak Ridge Priority EMDF D1 ROD review/comment...

Hi Sharon and review team,

I was informed yesterday that the D1 EMDF ROD would be submitted earlier than scheduled, possibly as soon as today. Carl is on vacation next week, but Connie will forward if/when it comes in.

Have a good weekend,

Cathy Amoroso, Chief
Restoration & DOE Coordination Section
Superfund & Emergency Management Division
U.S. EPA, Region 4
404-295-6758

From: Thoms, Sharon <Thoms.Sharon@epa.gov>
Sent: Friday, July 2, 2021 9:44 AM
To: Froede, Carl <Froede.Carl@epa.gov>
Cc: Amoroso, Cathy <Amoroso.Cathy@epa.gov>; Jones, Connie <Jones.Constance@epa.gov>; Frederick, Tim <Frederick.Tim@epa.gov>; Alexander, Shanna <Alexander.Shanna@epa.gov>; Osteen, Bill <Osteen.Bill@epa.gov>; Brock, Martha <Brock.Martha@epa.gov>
Subject: RE: DOE Oak Ridge Priority EMDF D1 ROD review/comment...

Hi Carl,

Have you received the ROD for the EMDF or just the proposed plan so far?

You did not ask for comments on the proposed plan. If the ROD is anything like the proposed plan I have the following general concerns:

- The remedial action objectives are deficient because they do not express language from TDEC state standards describing antidegradation requirements.
- The discussion of wastewater management is deficient because it addresses wastewater management once the landfill is closed. The landfill is likely to remain in operation for decades, perhaps 30 years, before it is closed. An operations and maintenance plan with a monitoring plan pertaining to the operation of the landfill before it is closed and the plan for management of contact water released from the landfill and other wastewaters while the landfill is open to receive waste materials should be presented in the Record of Decision and Proposed Plan. Collection and treatment of wastewater is included in the remedy only after the landfill is closed. Perhaps DOE meant to write something other than what they wrote, but as the text currently reads the alternative is unlikely to be protective.
- DOE will evaluate the long-term performance of the landfill. However, judging from DOE's handling of the EMWMF DOE considers the construction of the landfill incomplete until the landfill is closed, and DOE does not report data related to the performance of the EMWMF in the Remedial Effectiveness Report. Documents written by DOE on the performance of the landfill will be reviewed under DOE's independent regulatory authority. This process appears inconsistent with the CERCLA process and regulatory authority of EPA and States to conduct five-year reviews.

I look forward to reviewing the ROD.

Sharon

From: Froede, Carl <Froede.Carl@epa.gov>
Sent: Wednesday, June 2, 2021 8:18 AM
To: Frederick, Tim <Frederick.Tim@epa.gov>; Thoms, Sharon <Thoms.Sharon@epa.gov>; Alexander, Shanna <Alexander.Shanna@epa.gov>; Osteen, Bill <Osteen.Bill@epa.gov>
Cc: Amoroso, Cathy <Amoroso.Cathy@epa.gov>; Jones, Connie <Jones.Constance@epa.gov>
Subject: DOE Oak Ridge Priority EMDF D1 ROD review/comment...
Importance: High

Good morning everyone,

I hope that everyone is well.

The DOE is currently planning to deliver the Environmental Management Disposal Facility (EMDF) D1 ROD to EPA on July 12th. It has a very high review/comment **priority**.

Attached is the final approved EMDF Proposed Plan for your background review/consultation in preparing to review the D1 ROD. Appendix A should be reviewed but **NOT** Appendix B "FIELD SAMPLING PLAN."

I will submit a SSS review request form for the PP review (no comments are requested) and for the upcoming EMDF D1 ROD (comments requested). Connie or I will electronically provide you with a copy of the D1 ROD when it is made available to EPA. We are requesting a 60-day D1 ROD review. This will require that you submit your comments back to Connie Jones and me no later than September 10, 2021 (60 days). This email is being shared now to give you advanced notice of the upcoming D1 ROD.

Please contact me if you have any questions.

Thanks very much,
Carl